



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

via UPS

Mr. Mitchell Kizner, Esq.
Flaster Greenberg
1810 Chapel Avenue West
Cherry Hill, NJ 08002

February 12, 2013

Re: *IMO Spray Products Corporation,*
Docket No. RCRA-03-2013-0022

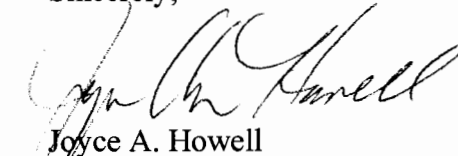
Dear Mr. Kizner:

This letter will confirm that the U.S. Environmental Protection Agency ("EPA") withdrew its proposed allegation against Spray Products Corporation for violation 40 C.F.R. § 262.11 and 25 Pa. Code Ch. 262a.11. Specifically, EPA had based this proposed allegation on the following, contained in the May 10, 2012 Show Cause letter addressed to Mr. Andrew Bastain:

Spray Products failed to make hazardous waste determinations as required by 40 C.F.R. § 262.11. At the time of the EPA inspection, the EPA inspectors observed approximately 39 containers for which hazardous waste determinations had not been made.

Based on information available to EPA obtained through EPA's investigation, and information obtained from Spray Products Corporation during the course of settlement negotiations, EPA determined to withdraw the proposed allegation that Spray Products Corporation was in violation of 40 C.F.R. § 262.11 at the time of the EPA inspection on August 4, 2011.

Sincerely,


Joyce A. Howell
Sr. Associate Regional Counsel

cc: Stephen Forostiak (3LC70)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

MEMORANDUM

SUBJECT: Consent Agreement and Final Order
Spray Products Corporation
Docket No. RCRA-03-2013-0022

FROM: John A. Armstead, Director
Land and Chemicals Division

cy for Marcia E. Mulkey
Regional Counsel

TO: Renée Sarajian
Regional Judicial Officer

The attached Consent Agreement and Final Order both commence and conclude a matter brought against Spray Products Corporation for violations of certain provisions of Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939e, and the Commonwealth of Pennsylvania's federally authorized hazardous waste management program. These violations were identified through an EPA inspection on August 4, 2011.

The attached Final Order directs Respondent to pay a civil penalty in the amount of \$25,000.00 and perform certain injunctive relief. The aforesaid settlement amount was based upon Complainant's consideration of the statutory factors set forth in Sections 3008(a) and (g) of RCRA, 42 U.S.C. §§ 6928(a) and (g), and EPA's June 2003 RCRA Civil Penalty Policy.

We recommend that you sign the attached Final Order. After you execute the Final Order, please return the documents to Joyce Howell, x2644, for further processing.

Attachments

cc: Joyce Howell, Esq.
Mitchell Kinzer, Esq.

RECEIVED
2013 FEB - 7 PM 2:46
REGIONAL JUDICIAL CLERK
EPA REGION III PHILADELPHIA, PA

**BEFORE THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION III**

In the Matter of:

Spray Products Corporation
1323 Conshohocken Road
Plymouth Meeting, PA 19462

Respondent,

Spray Products Corporation
1323 Conshohocken Road
Plymouth Meeting, PA 19462

Facility.

EPA Docket No. RCRA-03-2013-0022

Proceeding under Section 3008(a)
of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a)

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

2013 FEB -7 PM 2:48

RECEIVED

I. PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director, Land and Chemicals Division, U.S. Environmental Protection Agency, Region III ("EPA", "Agency" or "Complainant") and Spray Products Corporation ("Respondent") pursuant to Sections 3008(a) and (g) of the Solid Waste Disposal Act, commonly known as the Resource Conservation and Recovery Act ("RCRA") of 1976, as amended-by inter alia, the Hazardous and Solid Waste Amendments of 1984 (collectively referred to hereinafter as "RCRA"), 42 U.S.C. § 6928(a) and (g), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, including, specifically, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
2. This Consent Agreement ("CA") and the accompanying Final Order ("FO") address alleged violations by Respondent of RCRA and the federally authorized Pennsylvania Hazardous Waste Management Regulations ("PaHWMR"), codified at 25 Pa. Code Chapters 260a - 266c, 266b, and 268c - 270a. Effective January 30, 1986, the PaHWMR was authorized by the EPA pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), and 40 C.F.R. Part 271, Subpart A and thereby became requirements of RCRA Subtitle C and enforceable by EPA pursuant to RCRA § 3008(a), 42 U.S.C. § 6928(a). See *51 Fed. Reg. 1791* (January 15, 1986), *65 Fed. Reg. 57734* (September 26, 2000), *69 Fed. Reg. 2674* (January 20, 2004) and *74 Fed. Reg. 19453* (April 29, 2009). The PaHWMR incorporate, with certain exceptions, specific provisions of Title 40 of the 1999 Code of Federal Regulations by reference. See 25 Pa. Code § 260a.3(e).
3. Pursuant to § 22.13(b) of the Consolidated Rules of Practice, this CA and the attached FO (hereinafter jointly referred to as this "CAFO") simultaneously commence and conclude an administrative proceeding against Respondent, brought under Section 3008(a) and (g) of RCRA, 42 U.S.C. § 6928(a) and (g) to resolve alleged violations of RCRA at

Respondent's facility at 1323 Conshohocken Road, Plymouth Meeting, Pennsylvania, 19462 (the "Facility").

4. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.
5. For purposes of this proceeding, Respondent neither admits nor denies and makes no admissions as to the specific factual allegations and conclusions of law set forth in this CA, except as provided in Paragraph 4, above.
6. For the purposes of this proceeding only, Respondent agrees not to contest EPA's jurisdiction with respect to the execution and issuance of this CAFO, or the enforcement of the CAFO.
7. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CA and any right to appeal the accompanying FO.
8. Respondent consents to the issuance of this CAFO and agrees to comply with its terms.
9. Respondent shall bear its own costs and attorneys fees in connection with this proceeding.

Notice of Action to the Commonwealth of Pennsylvania

10. EPA has given the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection ("PADEP"), prior notice of the initiation of this action in accordance with Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2).

II. FACTUAL ALLEGATIONS AND EPA'S CONCLUSIONS OF LAW

In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), Complainant makes the following factual allegations:

11. Respondent is, and was at the time of the violations alleged herein, a corporation of the Commonwealth of Pennsylvania, and is a "person" as defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and as defined in 25 Pa. Code § 260a.10.
12. Respondent is, and has been at all times relevant to this Consent Agreement, the "owner" and "operator" of a "facility", described below, as those terms are defined in 25 Pa. Code § 260a.10, which, with the exception, among others, of the term "facility", incorporates by reference 40 C.F.R. § 260.10.
13. The facility referred to in Paragraph 12, above, including all of its associated equipment and structures (hereinafter a "Facility"), is a manufacturing facility located at 1323 Conshohocken Road, Plymouth Meeting, Pennsylvania, 19462.
14. Respondent is a large quantity generator of hazardous waste. Respondent is assigned EPA ID No. PAD042716084.

15. Respondent is a “small quantity handler of universal waste,” as that term is defined in 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.9, with exceptions not relevant herein.
16. Respondent is and, at all times relevant to this CAFO, has been a “generator” of, and has engaged in the “storage” in “containers” at the Facility of materials described below that are “solid wastes” and “hazardous wastes”, as those terms are defined in 25 Pa. Code § 260a.10, which with the exception, among others, of “storage” incorporates by reference 40 C.F.R. § 260.10.
17. On August 4, 2011, representatives of EPA and the PaDEP conducted a RCRA Compliance Evaluation Inspection (“RCRA CEI”) at the Facility.
18. On August 4, 2011, “hazardous wastes” generated by Respondent were in “storage” at the Facility as those terms are defined by 25 Pa. § 260a.10, which incorporates by reference 40 C.F.R. § 260.10 with the exception of “storage.”
19. Respondent generates waste heptane at the Facility. Waste heptane is a hazardous waste within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22 because it exhibits the characteristic for ignitability (D001) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22.
20. Respondent generates waste solvents at the Facility. Waste solvents are hazardous wastes within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22, because they have the characteristic for ignitability (D001) within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.22.
21. Respondent generates waste acetone (I:003) at the Facility. Waste acetone is a listed hazardous waste within the meaning of 25 Pa. Code § 261a.1, which incorporates by reference 40 C.F.R. § 261.31(a).

COUNT I

(Operating Without Qualifying for a Permit Exemption or Obtaining Interim Status or a Permit)

22. The preceding paragraphs are incorporated by reference.
23. 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) and (e) of RCRA, 42 U.S.C. § 6925(a) and (e) provide, in pertinent part, that a person may not own or operate a facility for the treatment, storage or disposal of hazardous waste unless such person has first obtained a permit for such facility or has qualified for interim status for the facility.
24. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(3), provides, in pertinent part, that a generator of hazardous waste may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator while being stored on-site, each container holding hazardous waste is labeled with the words “Hazardous Waste”, as provided in 40 C.F.R. § 262.34(a)(3).

25. At the time of the August 4, 2011 RCRA CEI, Respondent stored containers of hazardous waste described in Paragraphs 19 - 21, above, at the Facility that were not labeled with the words "Hazardous Waste" as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(3).
26. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(2), provides, in pertinent part, that a generator who generates hazardous waste may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things while being stored on-site, each container is clearly marked with the date upon which each period of accumulation began, and visible for inspection as provided in 40 C.F.R. § 262.34(a)(2) as provided in 40 C.F.R. § 262.34(a)(2).
27. At the time of the August 4, 2011 RCRA CEI, Respondent stored containers of hazardous waste described in Paragraphs 19 - 21, above, at the Facility that were not marked with the date upon which each period of accumulation began or were clearly visible for inspection, as required by 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. Part 262.34(a)(2).
28. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), provides, in pertinent part, that a generator who generates hazardous waste may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator maintains documentation of the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job as required by 40 C.F.R. § 262.34(a)(4), which references 40 C.F.R. § 265.16.
29. At the time of the August 4, 2011 RCRA CEI, Respondent did not have documentation of the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each job as required by 40 C.F.R. § 262.34(a)(4), which references 40 C.F.R. § 265.16.
30. 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a)(4), provides, in pertinent part, that a generator who generates hazardous waste may accumulate hazardous waste in containers on-site for 90 days or less without a permit or having interim status provided that, among other things, the generator immediately amends the facility contingency plan when the list of emergency coordinators changes as required by 40 C.F.R. § 262.34(a)(4), which references 40 C.F.R. § 265.54(d).
31. At the time of the August 4, 2011 RCRA CEI, Respondent had not amended the Facility contingency plan when the list of emergency coordinators changed as required by 40 C.F.R. § 262.34(a)(4), which references 40 C.F.R. § 265.54(d).
32. Respondent failed to qualify for the "less than 90-day" generator accumulation exemption of 25 Pa. Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), by failing to satisfy the conditions for such exemptions as set forth in 25 Pa.

Code § 262a.10, which incorporates by reference 40 C.F.R. § 262.34(a), referred to in Paragraphs 25, 27, 29, and 31, above.

33. By failing to meet the criteria for exemption from permitting, the Facility became a hazardous waste treatment, storage or disposal "facility", as that term is defined by 25 Pa. Code § 260a.10.
34. Respondent does not have, and never had, a permit or interim status pursuant to 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1 (b), or Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), for the storage of hazardous waste at the Facility.
35. Respondent was required by 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1(b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), to obtain a permit for its hazardous waste storage activities described in this count.
36. Respondent violated 25 Pa. Code § 270a.1, which incorporates by reference 40 C.F.R. § 270.1 (b), and Section 3005(a) of RCRA, 42 U.S.C. § 6925(a), by operating a hazardous waste storage facility without a permit or interim status or valid exemption.

COUNT II
(Manifest Records)

37. The preceding paragraphs are incorporated by reference.
38. Pursuant to 25 Pa. Code § 262a.1, which incorporates by reference 40 C.F.R. § 262.42 (a)(2), with exceptions not relevant here, Respondent is required to file an Exception Report with the Pennsylvania Department of Environmental Protection if Respondent has not received a copy of a manifest for hazardous waste shipped for disposal from its Facility with the handwritten signature of the owner or operator of the designated disposal facility within 45 days of the date that the waste was accepted by the initial transporter.
39. At the time of the August 4, 2011 RCRA CEI, EPA inspectors observed that four manifests for shipments of hazardous waste for disposal from Respondent's Facility had not been signed by the designated disposal facility.
40. The four manifests referenced in Paragraph 39, above, were for shipments of hazardous waste for disposal from Respondent's Facility which occurred more than 45 days prior to the EPA RCRA CEI on August 4, 2011.
41. At the time of the August 4, 2011 RCRA CEI, Respondent had not filed four corresponding Exception Reports for the four manifests described in Paragraph 39, above, with the Pennsylvania Department of Environmental Protection as required by 25 Pa. Code § 262a.1, which incorporates by reference 40 C.F.R. § 262.42 (a)(2), with exceptions not relevant here.
42. Respondent violated 25 Pa. Code § 262a.1, which incorporates by reference 40 C.F.R. § 262.42(a)(2), with exceptions not relevant here, by failing to file Exception Reports

with the Pennsylvania Department of Environmental Protection when Respondent did not receive copies of the manifests for hazardous waste shipped for disposal from its Facility with the handwritten signature of the owner or operator of the designated disposal facility within 45 days of the date the wastes were accepted by the initial transporter.

COUNT III
(Training Documentation)

43. The preceding paragraphs are incorporated by reference.
44. Pursuant to 25 Pa. Code 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d), Respondent is required to maintain documents and records at the facility that document the job title for each position at the facility related to hazardous waste management, and the name of the employee filling each such job.
45. At the time of the August 4, 2011 RCRA CEI, Respondent had not maintained documents and records at the Facility that document the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each such job as required by 25 Pa. Code 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d).
46. Respondent violated 25 Pa. Code 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d) by failing to document the job title for each position at the Facility related to hazardous waste management, and the name of the employee filling each such job as required by 25 Pa. Code 264a.1, which incorporates by reference 40 C.F.R. § 264.16(d).

COUNT IV
(Contingency Plan)

47. The preceding paragraphs are incorporated by reference.
48. Pursuant to 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.54(d), Respondent is required to immediately amend the facility contingency plan when the list of emergency coordinators changes.
49. At the time of the August 4, 2011 RCRA CEI, Respondent had not amended the Facility contingency plan when the list of emergency coordinators for the Facility had changed.
50. Respondent violated 25 Pa. Code § 264a.1, which incorporates by reference 40 C.F.R. § 264.54(d), by failing to amend the Facility contingency plan.

COUNT V
(Universal Waste Management)

51. The preceding paragraphs are incorporated by reference.
52. Pursuant to 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.(d)(1), Respondent is required to keep containers of universal waste lamps closed.

53. Pursuant to 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.14(e), Respondent is required to label containers of universal waste lamps with the words "Universal Waste-Lamp(s)" or "Waste Lamps" or "Used Lamp(s)."
54. Pursuant to 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. § 273.15, Respondent is required to demonstrate the length of time that universal waste lamps have been accumulating at the Facility.
55. At the time of the August 4, 2011 RCRA CEI, Respondent failed to keep containers of universal waste lamps at the Facility closed.
56. At the time of the August 4, 2011 RCRA CEI, Respondent failed to label containers of universal waste lamps at the Facility with the words "Universal Waste-Lamp(s)" or "Waste Lamps" or "Used Lamp(s)."
57. At the time of the August 4, 2011 RCRA CEI, Respondent could not demonstrate the length of time that the universal waste at the Facility had been accumulating.
58. Respondent violated 25 Pa. Code § 266b.1, which incorporates by reference 40 C.F.R. §§ 273.13(d)(1), 14(e), and 15, by failing to keep containers of universal waste lamps at the Facility closed, failing to label containers of universal waste lamps at the Facility and failing to demonstrate the length of time that universal waste lamps had been accumulating at the Facility.

III. CIVIL PENALTIES

59. Respondent agrees to pay a civil penalty in the amount of **\$25,000.00** in settlement of the alleged violations, which Respondent agrees to pay in accordance with the terms set forth below. Such civil penalty amount shall become due and payable immediately upon Respondent's receipt of a true and correct copy of the executed and filed CAFO. In order to avoid the assessment of interest, administrative costs, and late payment penalties in connection with such civil penalty as described in this CAFO, Respondent must pay the civil penalty no later than thirty (30) calendar days after the date on which a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent.
60. Having determined that this Consent Agreement is in accordance with law and that the civil penalty amount was determined after consideration of the statutory factors set forth in Section 3008(a) of RCRA, 42 U.S.C. § 6928(a) which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements, EPA hereby agrees and acknowledges that payment of the civil penalty shall be in full and final satisfaction of all civil claims for penalties which Complainant may have under Section 3008(a) of RCRA for the violations alleged in this CAFO. The Parties find and represent that the aforesaid settlement amount is reasonable and is based upon Complainant's consideration of a number of factors, including the penalty criteria set forth in Section 3008(a)(3) of RCRA, 42 U.S.C. § 6928(a)(3), which include the seriousness of the violation and any good faith efforts to comply with the applicable requirements. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's October, 1990 RCRA Civil Penalty Policy, as

revised in June, 2003 ("RCRA Penalty Policy"), which reflect the statutory penalty criteria and factors set forth at Sections 3008(a)(3) and (g) of RCRA, 42 U.S.C. §§ 6982(a)(3) and (g), the appropriate Adjustment of Civil Monetary Penalties/or Inflation, pursuant to 40 C.F.R. Part 19, and the November 16, 2009 Memorandum by EPA Office of Civil Enforcement, Waste and Chemical Enforcement Division Director Rosemarie A. Kelly, entitled *Adjusted Penalty Matrices based on the 2008 Civil Monetary Penalty Inflation Adjustment Rule*.

61. The civil penalty of **\$25,000.00** in Paragraph 59, above, may be paid in six (6) installments with interest at the rate of one percent (1 %) per annum on the outstanding principal balance in accordance with the following schedule:
- a. 1st Payment: The first payment in the amount of \$4,175.50 shall be paid 30 days after the Effective Date of the Final Order;
 - b. 2nd Payment: The second payment in the amount of \$4,175.50 plus interest, consisting of a principal payment of \$4,157.57 and an interest payment of \$17.93, shall be paid 60 days after the Effective Date of the Final Order;
 - c. 3rd Payment: The third payment in the amount of \$4,175.50 payment plus interest, consisting of a principal payment of \$4,161.61 and an interest payment of \$13.89 shall be 90 days after the Effective Date of the Final Order;
 - d. 4th Payment: The fourth payment in the amount of \$4,175.50 payment plus interest, consisting of a principal payment of \$4,164.73 and an interest payment of \$10.77, shall be 120 days after the Effective Date of the Final Order.
 - e. 5th Payment: The fifth payment in the amount of \$4,175.50 payment plus interest, consisting of a principal payment of \$4,168.32 and an interest payment of \$7.18 shall be 150 days after the Effective Date of the Final Order;
 - f. 6th Payment: The sixth and final payment in the amount of \$4,175.50 payment plus interest, consisting of a principal payment of \$4,172.27 and an interest payment of \$3.23, shall be 180 days after the Effective Date of the Final Order.
62. Pursuant to the above schedule, Respondent will remit total principal payments for the civil penalty in the amount of \$25,000.00 and total interest payments in the amount of \$53.00.

63. Payment of the civil penalty amount assessed above in Paragraph 59, above, shall be made either by cashier's check, certified check, or electronic wire transfer, in the following manner:
- A. All payments by Respondent shall reference Respondent's name and address, and the Docket Number of this action, RCRA-03-2013-0022;
 - B. All checks shall be made payable to "**United States Treasury**";
 - C. All payments made by check and sent by regular mail shall be addressed to:

United States Environmental Protection Agency Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
Contact: Heather Russell 513-487-2063
 - D. All payments made by check and sent by overnight delivery service shall be addressed for delivery to:

U.S. Bank
Government Lockbox 979077
U.S. EPA, Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101
Contact: 314-418-1028
 - E. Payments made by check in any currency drawn on banks with no USA branches shall be addressed for delivery to:

Cincinnati Finance
US EPA, MS-NWD
26 W. M.L. King Drive
Cincinnati, OR 45268-001
 - F. All payments made by electronic wire transfer shall be directed to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS3
33 Liberty Street
New York NY 10045

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

- G. All electronic payments made through the Automated Clearing House (ACH), also known as Remittance Express (REX) shall be directed to:

US Treasury REX / Cashlink ACH Receiver
ABA = 051036706
Account No. 310006, Environmental Protection Agency
CTX Format Transaction Code 22 –Checking

Physical Location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact: John Schmid 202-874-7026 or REX, 1-866-234-5681

- H. On-Line Payment Option:

WWW.PAY.GOV/PAYGOV
Enter sfo 1.1 in the search field, open form and complete the required fields

64. At the time of payment, Respondent shall send a notice of such payment, including a copy of any check or electronic transfer, as appropriate, to:

Lydia Guy
Regional Hearing Clerk
U.S. Environmental Protection Agency
Region III (Mail Code 3RC00)
1650 Arch Street
Philadelphia, PA 19103-2029

and

Joyce A. Howell
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency
Region III (Mail Code 3RC30)
1650 Arch Street
Philadelphia, PA 19103-2029

65. Respondent agrees not to deduct for civil taxation purposes the civil penalty specified in this Consent Agreement and the attached Final Order.
66. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment as specified in this

CAFO shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.

67. Interest on the civil penalty assessed in this CAFO will begin to accrue on the date that a copy of the executed and filed CAFO is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R. § 13.11(a).
68. The costs of the Agency's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid. A penalty charge of six percent per year will be assessed monthly on any portion of the civil penalty which remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

IV. EFFECT OF SETTLEMENT

69. Payment of the penalty specified in Paragraph 59 above, shall constitute full and final satisfaction of all civil claims for penalties which Complainant has under RCRA Sections 3008(a) and (g), for the specific violations alleged in Counts I through V, above. m. Compliance with this CAFO shall not be a defense to any action commenced at any time for any other violation of the federal laws and regulations administered by EPA.

V. RESERVATION OF RIGHTS

70. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged in the CAFO. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under RCRA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this CAFO, following its filing with the Regional Hearing Clerk. Respondent reserves all available rights and defenses it may have to defend itself in any such action.

VI. OTHER APPLICABLE LAWS

71. Nothing in this CAFO shall relieve Respondent of any duties otherwise imposed upon it by applicable federal, state, or local law and/or regulation.

VII. CERTIFICATION OF COMPLIANCE

72. As to all relevant provisions of RCRA Subtitle C, 42 U.S.C. §§ 6901 *et seq.*, and the Commonwealth of Pennsylvania's federally authorized hazardous waste management program allegedly violated as set forth in at 25 Pa Code §§ 260a.1 *et seq.* Respondent certifies to EPA that, upon investigation, to the best of Respondent's knowledge and belief, Respondent is currently in compliance with all such relevant provisions and regulations.

VIII. PARTIES BOUND

73. This Consent Agreement and the accompanying Final Order shall apply to and be binding upon the EPA, the Respondent, Respondent's officers and directors (in their official capacity) and Respondent's successors and assigns. By his or her signature below, the person signing this Consent Agreement on behalf of Respondent acknowledges that he or she is fully authorized to enter into this Consent Agreement and to bind the Respondent to the terms and conditions of this Consent Agreement and the accompanying Final Order.

IX. EFFECTIVE DATE

74. The effective date of this CAFO is the date on which it is filed with the Regional Hearing Clerk after signature by the Regional Judicial Officer or Regional Administrator.

For Respondent, Spray Products Corporation:

Date:

1/3/12

By:



Name: Andrew B. Bastian

Title: President and CEO

Spray Products Corporation

For Complainant, United States Environmental Protection Agency, Region III:

Date:

Jan 15, 2013

By:


Joyce A. Howell

Senior Assistant Regional Counsel

After reviewing the foregoing Consent Agreement and other pertinent information, the Director, Land and Chemicals Division, EPA Region III, recommends that the Regional Administrator or the Regional Judicial Officer issue the Final Order attached hereto.

Date:

1.28.13

By:


John A. Armistead

Director

Land and Chemicals Division

2323638 v1

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, PA 19103-2029**

In the Matter of:

Spray Products Corporation
1323 Conshohocken Road
Plymouth Meeting, PA 19462

Respondent,

Spray Products Corporation
1323 Conshohocken Road
Plymouth Meeting, PA 19462

Facility.

EPA Docket No. RCRA-03-2013-0022

Proceeding under Section 3008(a)
of the Resource Conservation and
Recovery Act, as amended, 42 U.S.C.
Section 6928(a)

REGIONAL HEARING CLERK
EPA REGION III, PHILA. PA

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FINAL ORDER

Complainant, the Director of the Land and Chemicals Division, U.S. Environmental Protection Agency - Region III, and Respondent, Spray Products Corporation, have executed a document entitled "Consent Agreement" which I ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are incorporated herein by reference.

NOW, THEREFORE, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6928(a), and based upon the representations of the parties set forth in the Consent Agreement that the civil penalty amount agreed to by the parties in settlement of the above-captioned matter is based upon a consideration of the factors set forth in RCRA Section 3008(a)(3), 42 U.S.C. § 6928(a)(3), IT IS HEREBY ORDERED THAT Respondent shall pay a civil penalty in the amount of **\$25,000.00**, as specified in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

The effective date of this Final Order and the accompanying Consent Agreement is the date on which the Final Order is filed with the Regional Hearing Clerk of U.S. EPA, Region III.

Date: 2/7/13

By: Renée Sarajian
Renée Sarajian
Regional Judicial Officer

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 ARCH STREET
PHILADELPHIA, PENNSYLVANIA 19103-2029

In the Matter of:

Spray Products Corporation
1323 Conshohocken Road
Plymouth Meeting, PA 19462

Respondent,

Spray Products Corporation
1323 Conshohocken Road
Plymouth Meeting, PA 19462

Facility.

EPA Docket No. RCRA-03-00022

Proceeding under Section 3005
of the Resource Conservation
Recovery Act, as amended, 42
Section 6928(a)

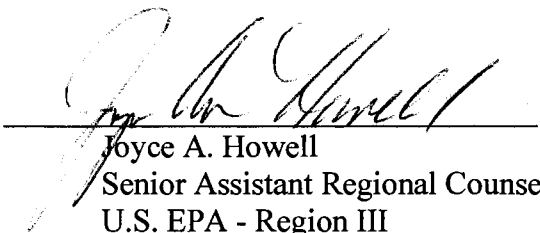
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EPA REGION III PHILADELPHIA, PA

CERTIFICATE OF SERVICE

I certify that I sent by UPS, next day delivery, a copy of the Consent Agreement and Final Order to the addressee listed below. The original and one copy of the Consent Agreement and Final Order, were hand-delivered to the Regional Hearing Clerk, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

Mr. Mitchell Kizner, Esq.
Flaster Greenberg
1810 Chapel Avenue West
Cherry Hill, NJ 08002

Dated: 2/7/2003


Joyce A. Howell
Senior Assistant Regional Counsel
U.S. EPA - Region III
1650 Arch Street
Philadelphia, PA 19103-2029